

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

UNITED SERVICES AUTOMOBILE
ASSOCIATION, A TEXAS RECIPROCAL
INTER-INSURANCE EXCHANGE;

Plaintiff,

V.

WELLS FARGO BANK, N.A., A
NATIONAL BANKING ASSOCIATION;

Defendant.

[illegible]

CIVIL ACTION NO. 2:18-CV-00245-JRG


ORDER

Before the Court is Defendant Wells Fargo Bank, N.A.’s (“Wells Fargo”) Motion for Judgment on the Pleadings, which was filed on September 18, 2018. (Dkt. No. 28.) On November 26, 2018, Plaintiff United States Automobile Association (“USAA”) filed its First Amended Complaint against Wells Fargo in the above-captioned case. (*See generally* Dkt. No. 51.) In view of such, the Court hereby **DENIES AS MOOT** Wells Fargo’s Motion for Judgment on the Pleadings (Dkt. No. 28).¹ To the extent the underlying issues remain live, the Parties are hereby **GRANTED** leave, within the next fifteen (15) days, to refile a similar motion in light of USAA’s First Amended Complaint.

¹ See *Bosarge v. Mississippi Bureau of Narcotics*, 796 F.3d 435, 440 (5th Cir. 2015) (“An amended complaint supersedes the original complaint and renders it of no legal effect unless the amended complaint specifically refers to and adopts or incorporates by reference the earlier pleading.” (quoting *King v. Dogan*, 31 F.3d 344, 346 (5th Cir. 1994)); see also *Stredwick v. Dallas Margarita Society, Inc.*, No. 3:12-cv-623, 2012 WL 12893430, at *1 (N.D. Tex. June 27, 2012) (denying as moot a motion for judgment on the pleadings in light of the filing of an amended complaint); *Finley v. Washington Mut. Bank, F.A.*, No. 4:07-cv-225, 2008 WL 686573, at *2 (E.D. Tex. Mar. 10, 2008) (“If Defendant seeks judgment on the pleadings, it must show the Court how it is entitled to judgment on the live pleadings.”) (emphasis in original).

So Ordered this

Dec 12, 2018



RODNEY GILSTRAP
UNITED STATES DISTRICT JUDGE